

ANNUAL REPORT

FISCAL YEAR 2007-2008

CAREER SERVICE REVIEW BOARD

STATE OF UTAH



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CAREER SERVICE REVIEW BOARD OFFICE

1120 State Office Building, Salt Lake City, Utah 84114-1561 Phone (801) 538-3048 FAX (801) 538-3139

www.csr.utah.gov

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STATE OF UTAH

ANNUAL REPORT

FISCAL YEAR 2007-2008

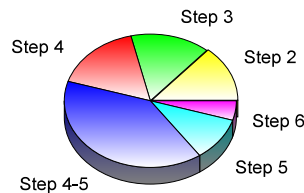
LEVELS AT WHICH GRIEVANCE CASES WERE RESOLVED DURING FISCAL YEAR 2007-2008

LEVELS OF RESOLUTION	GRIEVANCE CASES	NO. OF EMPLOYEES
Step 2 Immediate Supervisor	9	7
Step 3 Agency/Division Director	10	9
Step 4 Department Head	11	11
Mediation Forum (Between Steps 4 & 5)	25	21
*Step 5 Evidentiary Hearing	7	6
Step 6 Appellate Review by Board	3	3
TOTALS:	65	57**

*In addition to the seven cases resolved at Step 5 during Fiscal Year 2007-2008, CSRB hearing officers held four additional hearings that are not reflected in this chart. These additional hearings are not reflected in this chart because the decisions were either issued after June 30, 2007, resolved at Step 6 or still on appeal to Step 6. These hearings however, are reflected in the material found at pages 10-11.

**The total number of grievances filed with the CSRB during Fiscal Year 2007-2008 equals 65; however, because several employees filed multiple grievances, the number of employees availing themselves of the State's Grievance and Appeal Procedures during this period equals 57.

LEVELS OF RESOLUTION BY PERCENT



Step 2	15%
Step 3	16%
Step 4	17%
Step 4-5	40%
Step 5	11%
Step 6	1%

**NUMBER OF APPEALS FROM DISCIPLINARY
PENALTIES AND LEVELS OF RESOLUTION
DURING FISCAL YEAR 2007-2008**

LEVEL	DISCIPLINARY* PENALTIES RESOLVED
Step 2	0
Step 3	7
Step 4	6
Mediation Forum (Between Steps 4 & 5)	11
**Step 5	6
***Step 6	2
TOTAL:	32



***Note:** There are only four disciplinary actions designated by statute: written reprimand, suspension, demotion and dismissal (*Utah Code*, Section 67-19a-302(1)). No other issues qualify as disciplinary actions.

****** In addition, to the six disciplinary cases identified here, there were four additional Step 5 evidentiary hearings held during Fiscal Year 2007-2008, that involved disciplinary matters. All four of these cases were appealed to Step 6 of the State's Grievance and Appeal Procedures.

*******There was also an additional Step 6 hearing held during Fiscal Year 2007-2008 that involved a disciplinary issue. That case is not identified here because the Board's decision resolving this case was not issued until July of 2008 and thus will be reflected in next year's annual report.

**RESOLUTION ON APPEALS FROM DISCIPLINARY ACTIONS
DURING FISCAL YEAR 2007-2008**

LEVEL	ACTION	NUMBER	DETERMINATION					
			AFFIRMED	MODIFIED	RESCINDED			
Step 2	Reprimand	0	0	0	0			
	Suspension	0	0	0	0			
	Demotion	0	0	0	0			
	Dismissal	0	0	0	0			
Step 3	Reprimand	1	1	0	0			
	Suspension	6	5	1	0			
	Demotion	0	0	0	0			
	Dismissal	0	0	0	0			
Step 4	Reprimand	2	0	2	0			
	Suspension	3	2	1	0			
	Demotion	1	0	0	1			
	Dismissal	0	0	0	0			
Mediation/Jurisdiction Forum	Reprimand	1	0	1	0			
	Suspension	4	3	1	0			
	Demotion	2	0	2	0			
	Dismissal	4	3	1	0			
Step 5	Reprimand	0	0	0	0			
	Suspension	3	3	0	0			
	Demotion	0	0	0	0			
	Dismissal	3	3	0	0			
Step 6	Reprimand	0	0	0	0			
	Suspension	0	0	0	0			
	Demotion	0	0	0	0			
	Dismissal	2	1	0	1			
TOTAL DISCIPLINARY APPEALS:		32	=	21	+	9	+	2

**FREQUENCY DISTRIBUTION OF GRIEVANCE ISSUES
DURING FISCAL YEAR 2007-2008**

ISSUES	OCCURRENCES
Suspension.....	16
Salary:.....	12
ASI (5)	
Policy Violation (2)	
Pay Equity (5)	
Dismissal.....	9
Promotion.....	4
Reassignment.....	4
Retaliation.....	4
Written Reprimand.....	4
Corrective Action.....	3
Demotion.....	3
Hostile Work environment.....	3
Co-Worker Complaints.....	2
Working Conditions.....	2
Administrative Actions.....	1

ISSUES	OCCURRENCES
Leave.....	1
Performance Appraisals.....	1
Records Management.....	1
Rule Violations.....	1
Transfer.....	1
Written Warning.....	1

TOTAL ISSUES GRIEVED:..... 73

Note: There were 65 grievance cases resolved; however, many cases had multiple issues grieved. Thus, the overall number of grievance issues resolved (73) exceeds the total number of employees' cases (65) that were resolved.

**GRIEVANCE CASES IDENTIFIED BY DEPARTMENTS
AND LEVELS OF RESOLUTION
DURING FISCAL YEAR 2007-2008**

**ADMINISTRATIVE
SERVICES**

Step 2 - 0
3 - 0
4 - 0
4-5 - 2
5 - 0
6 - 0

ATTORNEY GENERAL

Step 2 - 0
3 - 0
4 - 0
4-5 - 2
5 - 0
6 - 0

COMMERCE

Step 2 - 0
3 - 0
4 - 0
4-5 - 1
5 - 0
6 - 0

CORRECTIONS

Step 2 - 2
3 - 3
4 - 6
4-5 - 8
5 - 4
6 - 1

**ENVIRONMENTAL
QUALITY**

Step 2 - 0
3 - 0
4 - 0
4-5 - 0
5 - 1
6 - 0

**FINANCIAL
INSTITUTIONS**

Step 2 - 0
3 - 0
4 - 0
4-5 - 3
5 - 0
6 - 0

HEALTH

Step 2 - 2
3 - 0
4 - 0
4-5 - 1
5 - 0
6 - 0

HUMAN SERVICES

Step 2 - 3
3 - 5
4 - 2
4-5 - 4
5 - 0
6 - 1

NATURAL RESOURCES

Step 2 - 0
3 - 1
4 - 0
4-5 - 0
5 - 0
6 - 0

PUBLIC SAFETY

Step 2 - 1
3 - 0
4 - 1
4-5 - 1
5 - 1
6 - 0

TAX COMMISSION

Step 2 - 1
3 - 0
4 - 0
4-5 - 0
5 - 0
6 - 1

TECHNOLOGY SERVICES

Step 2 - 0
3 - 0
4 - 1
4-5 - 1
5 - 0
6 - 0

TRANSPORTATION

Step 2 - 0

3 - 0

4 - 0

4-5 - 1

5 - 0

6 - 0

WORKFORCE SERVICES

Step 2 - 0

3 - 1

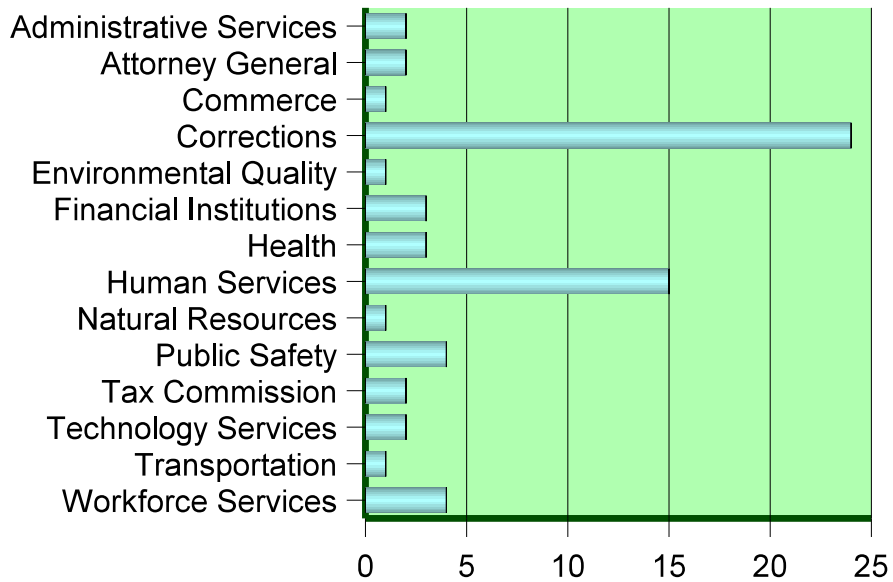
4 - 1

4-5 - 1

5 - 1

6 - 0

GRIEVANCES BY DEPARTMENT



GRIEVANCE CASES PER LEVEL RESOLVED

DURING FISCAL YEAR 2007-2008

STEP 2		
IMMEDIATE SUPERVISOR	CASES: 9	EMPLOYEES: 7

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
D.C.E.	Administrative Actions	Corrections/AP&P
D.C.E.	1. Hostile Work Environment 2. Retaliation	Corrections/AP&P
L.S.	Co-Worker Complaint	Human Services/DCFS
M.P.J.	Co-Worker Complaint	Health/HCF
M.S.	Salary	Human Services/DCFS
M.S.	Corrective Action	Human Services/DCFS
N.M.	Leave	Health/Medicaid Operations
R.P.	Hostile Work Environment	Public Safety/Drivers License
W.D.L.	Corrective Action	Tax Commission

STEP 3		
DIVISION/AGENCY DIRECTOR	CASES: 10	EMPLOYEES: 9

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
A.D.	Written Reprimand	Corrections/AP&P
A.B.	Written Warning	Human Services/ORS
B.K.	Suspension	Human Services/JJS
L.R.	Suspension	Human Services/JJS
M.S.*	Suspension	Human Services/DCFS

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
O.S.	1. Reassignment 2. Salary (ASI)	Natural Resources/Parks & Recreation
P.C.	Suspension	Workforce Services/Field Audit
P.L.	1. Hostile Work Environment 2. Transfer Request	Corrections/AP&P
R.M.	Suspension	Human Services/ORS
Z.R.C.	Suspension	Corrections/DIO

*This employee previously accounted for based upon multiple grievances filed.

STEP 4		
DEPARTMENT HEAD	CASES: 11	EMPLOYEES: 11
<u>Employees</u>	<u>Issues</u>	<u>Department</u>
D.G.S.	1. Suspension 2. Corrective Action Plan	Human Services/ORS
G.B.	Demotion	Corrections/UCI
H.J.	Written Reprimand	Technology Services
H.J..	Written Reprimand	Corrections/AP&P
H.G.L.	Promotion	Public Safety/UHP
L.J.	Promotion	Workforce Services/Unemployment Ins
M.J.	Salary (ASI)	Corrections/AP&P
R.D.	Suspension	Corrections/DIO
R.D.	Salary (Equity)	Corrections/DIO
W.M.	Salary (ASI)	Corrections/DIO
W.P.	Suspension	Human Services/ORS

MEDIATION/JURISDICTIONAL FORUM
BETWEEN STEPS 4 AND 5 CASES: 25

EMPLOYEES: 21

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
B.E.J.	Dismissal	Public Safety
B.R.L.	Suspension	Human Services/JJS
B.B.	Reassignment	Health
C.K.F.	Suspension	Corrections/DIO
D.P.	Reassignment	Workforce Services
D.R.R.	Written Reprimand	Financial Institutions
D.R.R.	1. Retaliation 2. Performance Appraisal	Financial Institutions
D.R.R.	Demotion	Financial Institutions
G.L.	1. Salary (Equity) 2. Records Management Act	Human Services/DSPD
H.V.	Working Conditions	Transportation
H.J.	Salary (Rule Violation)	Attorney General
H.J.	1. Retaliation 2. Promotion	Attorney General
H.J.	Demotion	Corrections/AP&P
H.A.	Dismissal	Corrections/DIO
J.M.A.	Suspension	Administrative Services/State Mail
J.M.A.	Dismissal	Administrative Services/State Mail
M.R.E.	Salary (Equity)	Corrections/DIO

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
M.B.	Suspension	Technology Services
N.R.J.	1. Rules Violation 2. Retaliation	Corrections/DIO
R.G.A.	Working Conditions	Commerce/Securities
S.B.	Reassignment	Corrections/DIO
T.D.	Dismissal	Corrections/DIO
V.N.	Salary (Equity)	Human Services/DSPD
W.B.G.	Salary (ASI)	Corrections/AP&P
W.C.D.	Salary (Equity)	Human Services/ORS

STEP 5

EVIDENTIARY HEARING CASES: 7

EMPLOYEES: 6

<u>Employees</u>	<u>Issues</u>	<u>Department</u>
Jerry T. Borrowman	Suspension	Corrections/AP&P
Carl Dinger*	Suspension	Corrections/AP&P
Steven D. Helm	Dismissal	Public Safety/UHP
LaRae G. Mitchell	Dismissal	Corrections/AP&P
Steven J. Onysko	Promotion	Environmental Quality
Kathy M. Orr	Dismissal	Workforce Services
James R. Roberts	Suspension	Corrections/DIO

***This employee was previously accounted for based upon multiple grievances filed.**

Note: In addition to these seven cases resolved at Step 5 during Fiscal Year 2007-2008, CSRB Hearing Officers held hearings in the following four cases. These cases were heard at Step 5, but not resolved during Fiscal Year 2007-2008, because the final decision was either issued after June 30, 2006, resolved at Step 6 or still on appeal to Step 6.

<u>Employee</u>	<u>Issue</u>	<u>Department</u>	<u>Decision Issued</u>	<u>Status</u>
John M. Duran	Dismissal	Technology Services	May 2, 2008	Appealed to Step 6
Christine L. Facemyer	Dismissal	Corrections	June 7, 2008	Appealed to Step 6
Nathan E. Hansen	Dismissal	Corrections	June 7, 2008	Appealed to Step 6
Rick J. Nichols	Dismissal	Corrections	June 9, 2008	Appealed to Step 6

STEP 6

Appellate Review/Board

Cases: 3

Employees: 3

<u>Employee</u>	<u>Issue</u>	<u>Department/Division</u>
Margaret Brimhall	Salary (Policy Violation)	Corrections/DIO
Brent N. Hughes	Dismissal	Human Services/ORS
Rosario Montano	Dismissal	Tax Commission

Note: An additional Step 6 hearing was held in the *Nichols v. Corrections* case in May 2008. Because the Step 6 decision was not issued until July 2008, it will be captured in ext year's annual report as being resolved in Fiscal Year 2008-2009.

JURISDICTIONAL HEARINGS AND ADMINISTRATIVE REVIEWS OF THE FILE CONDUCTED DURING FISCAL YEAR 2007-2008

JURISDICTIONAL HEARINGS:

A jurisdictional hearing is a formal adjudication conducted according to the Utah Administrative Procedures Act. These hearings are held at the request of employees, agency management, or at the initiative of the CSRB administrator. Jurisdictional hearings address the four issues of: timeliness, direct harm, standing and eligibility to advance issues and remedies to the evidentiary/step 5 level, according to *Utah Code*, §67-19a-403(2)(b)(i).

EMPLOYEE/CASE NO.	ISSUE	DEPARTMENT
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None Held

ADMINISTRATIVE REVIEWS OF THE FILE:

An administrative review of the file is an informal adjudication under the Utah Administrative Procedures Act. The contents of the CSRB's case files are reviewed and a written legal decision is issued. The decision is based upon a consideration of all documents contained in the CSRB's file. These reviews are conducted according to *Utah Code*, §67-19a-403(2)(b)(ii).

EMPLOYEE/DATE ISSUED	ISSUE	DEPARTMENT/CASE NUMBER
Ricky L. Brown December 6, 2007	Timeliness	Human Services/J.H. 171
Brenda Bryant December 16, 2007	Subject Matter	Health/ J.H. 167
Linda Granat November 20, 2007	Subject Matter	Human Services/J.H. 169
Vida Hajibecklou November 8, 2007	Standing	Transportation/J.H. 168
Jason Hanks February 25, 2008	1. Standing 2. Subject Matter	Attorney General/J.H. 172
Jason Hanks December 12, 2007	Subject Matter	Attorney General/J.H. 175
Ronnie R. McCloud September 28, 2007	Subject Matter	Corrections/J.H. 166
Rick J. Nichols January 9, 2008	1. Standing 2. Subject Matter	Corrections/J.H. 174
George A. Robison July 18, 2007	Subject Matter	Commerce/J.H. 165
Blitch Shuman July 10, 2007	Subject Matter	Corrections/J.H. 164
Nancy Valdez January 3, 2008	Subject Matter	Human Services/J.H 173.
Blake Woodring June 26, 2008	Subject Matter	Corrections/J.H. 176

Carrie D. Worthen
December 4, 2007
January 3, 2008
(Reconsideration)

Subject Matter

Human Services/J.H. 170

**JUDICIAL REVIEW BY THE COURTS
CASES DECIDED DURING FISCAL YEAR 2007-2008**

1. *Lorin Blauer, Grievant and Appellant v. Utah Department of Workforce Services, Agency and Respondent.* CSRB Case No. 9 CSRB 83

Designation in the Court of Appeals:

Lorin Blauer, Petitioner vs. Utah Department of Workforce Services an agency of the State of Utah, and Utah Career Service Review Board, Respondents.
Case No. 20060702-CA

Synopsis: Grievant appealed to the CSRB the Department's termination of his employment based upon Grievant being unable or unwilling to return to work after being on LTD for one year as mandated by DHRM rule. The CSRB's hearing officer held that the Department's termination of Grievant's employment was for the good of the public service and otherwise for just cause based upon Grievant's failure to return to work following expiration of the maximum period of disability leave. The Board upheld the hearing officer's decision in its entirety. Grievant then appealed this decision to the Utah Court of Appeals.

Decision: On August 16, 2007, the Utah Court of Appeals upheld the Board's decision on procedural grounds. Specifically, the Court of Appeals concluded that Grievant was untimely in appealing the Board's decision to the Court. The Court of Appeals concluded "as this court lacks jurisdiction over untimely petitions, we cannot consider the merits of Blauer's petition for review of the CSRB's final order. We therefore . . . dismiss his [Grievant's] petition for review of the agency's final order."

2. *R. Jason Hanks, Grievant, v. State of Utah Office of Attorney General, Agency.* CSRB Case No. J.H. 172

Designation in Third District Court:

R. Jason Hanks, Petitioner, v. Utah Attorney General's Office, Respondent. Civil Case No. 080900059

Synopsis: Grievant appealed to the CSRB the Attorney General's implementation of legislatively approved salary appropriations intended to mitigate recognized salary inequities between attorneys

in the Attorney General's Office and other public attorneys. The CSRB denied jurisdiction finding that Grievant failed to establish he had been directly harmed by the Attorney General's compensation plan which did not take effect until a future date. The CSRB also concluded that the facts as set forth in Mr. Hanks' grievance failed to establish that he had been demoted. Grievant then appealed the CSRB's jurisdictional decision to the Third District Court. The Department then filed a motion to have Grievant's complaint summarily dismissed.

Decision: On May 5, 2008, the Third District Court dismissed Mr. Hanks' petition for review.

**JUDICIAL REVIEW BY THE COURTS
CASES PENDING DURING FISCAL YEAR 2007-2008**

1. Lorin Blauer, Grievant, V. Utah Department of Workforce Services, Agency, CSRB
Case No. 28 CSRB/H.O. 408

Designation in the Court of Appeals:

Lorin Blauer, Petitioner vs. Utah Department of Workforce Services, and Utah Career Service Review Board, Agencies and Respondents
Appellate Case No. 20061177-CA

2. Julie Ann Olson, Grievant v. Utah Department of Health, Agency, CSRB Case No. J.H. 163

Designation in Third Judicial District Court:

Julie Ann Olson, Plaintiff/Petitioner, vs. Utah Department of Health, Defendant/Respondent.
Civil No. 070910001

3. Brent N. Hughes v. Utah Department of Human Services, CSRB Case No. 8 CSRB 80

Designation in the Court of Appeals:

Brent Hughes, Grievant/Appellee, vs. Department of Human Services, State of Utah, Agency/Appellants, Appellate Case No. 20080426

4. Blitch Shuman v. Utah Department of Corrections, CSRB Case No. J.H. 164

Designation in Third Judicial District Court:

Hanford "Blitch" Shuman, III, Plaintiff, v. The State of Utah Department of Corrections, the Career Service Review Board and the Department of Human Resource Management, Defendant,
Civil No. 070911287

5. *Brenda Bryant v. Utah Department of Health*, CSRB Case No. J.H. 167

Designation in Third Judicial District Court:

Brenda A. Bryant, Plaintiff, v. The State of Utah Department of Health; the Career Service Review Board; the Department of Human Resource Management; David N. Sundwall, individually and in his capacity as the Executive Director of the Department of Health; and Michael Hales, individually, and in his capacity as the Director of the Division of Health Care Financing, and John and Mary Jane Does 1 through 10, Defendants, Civil Case No. 070916205 AA

6. *Carrie Worthen v. Utah Department of Human Services*, CSRB Case No. 170
Nancy Valdez v. Utah Department of Human Services, CSRB Case No. 173

Designation in Third Judicial District Court:

Carrie Worthen and Nancy Valdez, Plaintiffs, vs. Utah Department of Human Services and the Career Service Review Board, Civil Case No. 080901915

**STATISTICAL SUMMARY OF ACTIVITIES
FOR FISCAL YEAR 2007-2008**

GENERAL:

Grievance cases resolved in the CSRB forum:	65
Career service employees participating in the grievance process:	57
Evidentiary/step 5 hearings conducted:	11
Evidentiary/step 5 hearings decisions issued:	11
Appellate/step 6 hearings conducted:	3
Appellate/step 6 decisions issued:	3
Jurisdictional hearings conducted/decisions issued:	0
Administrative reviews of the file conducted/issued:	13
Cases resolved, mediated or otherwise settled following an appeal to Step 5:	8

CSRB BOARD CHAIRPERSON, BOARD MEMBERS, AND PRESIDING OFFICERS:

Step 6 decisions issued:	3
Orders/Rulings issued:	0
Step 5 hearing decisions issued:	5
Orders Issued by CSRB Hearing Officers:	5

CSRB ADMINISTRATOR:

Prehearing/status conferences conducted:	20
Prehearing/status conference summaries/orders issued:	20
Other orders issued:	39
Jurisdictional decisions issued:	13

THE COURTS:

CSRB decisions issued by the Utah Court of Appeals:	1
CSRB cases currently pending before the Utah Court of Appeals:	2
CSRB decisions issued by Utah District Courts:	1
CSRB cases currently pending before the Utah District Courts:	4

**ANNUAL GRIEVANCE CASES COMPARED
FOR TEN YEAR PERIOD
FISCAL YEARS 1997-1998 THROUGH 2007-2008**

FISCAL YEAR	TOTAL GRIEVANCES	JURISDICTIONAL DECISIONS	STEP 5 HEARINGS	STEP 6 HEARINGS
98-99	122	2	5	1
99-00	103	3	5	1
00-01	116	6	10	1
01-02	78	5	2	1
02-03	91	9	15	6
03-04	129	12	9	7
04-05	122	15	7	7
05-06	83	6	10	2
06-07	70	9	5	6
07-08	65	13	11	3

